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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/584,751	06/27/2006	Harutoshi Miyamoto	2006_0824A	7947
52349 7590 08/19/2009 WENDEROTH, LIND & PONACK L.L.P. 1030 15th Street, N.W. Suite 400 East Washington, DC 20005-1503				
EXAMINER				
SHIBRU, HELEN				
ART UNIT		PAPER NUMBER		
2621				
MAIL DATE		DELIVERY MODE		
08/19/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/584,751

Applicant(s)

MIYAMOTO, HARUTOSHI

Examiner

HELEN SHIBRU

Art Unit

2621

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 July 2009.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
4a) Of the above claim(s) 2, 8 and 9 is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1, 3-7, 10 and 11 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 27 June 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/5508)
Paper No(s)/Mail Date 05/28/2009 AND 06/27/2006
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. Claims 2 and 8-9 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected Species, there being no allowable generic or linking claim. Election was made in the reply filed on 07/08/2009 and is considered without traverse.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1 and 10-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Jun (JP PUB NO 2003-3289495).

Regarding claim 1, Jun discloses an apparatus which reproduces a moving image file, said apparatus comprising: a table size obtaining unit operable to obtain, from a recording medium, size information of a table which holds index information for the moving image file (see abstract, paragraphs 0034-0038, and 0058-0062); a memory for storing index information (see abstract key frame information stored in an index area of a local memory); a memory size obtaining unit operable to obtain size information of said memory (see abstract, when it is decided that the storage capacity if the index area exceeded, i.e. the size information of the memory is obtained); a calculating unit operable to calculate a thinning-out ratio of the index information so that the size of the table becomes equal to or smaller than the size of said memory (see paragraphs 0080-0085); a thinning-out unit operable to thin out the index information based

on the thinning-out ratio (see abstract the key frame information is thinned out, see also paragraphs 0092-0096); and a writing unit operable to write the thinned-out index information into said memory (see abstract the thinned out information is reserved in the memory and new information is appended in the freed space provided by the thinning process).

Regarding claims 10 and 11, the limitation of claims 10 and 11 can be found in claim 1 above. Therefore claims 10 and 11 are analyzed and rejected for the same reasons as discussed in claim 1 above.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 3-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jun in view of Ohsawa (US Pat. No. 5, 898, 461).

Although Jun discloses the limitation of claim 1, Jun fails to specifically teach the said calculating unit is operable to calculate the thinning-out ratio of the index information so that the index information is thinned out based on a weight assigned to the index information depending on a reproduction time of the moving image file.

In the same field of endeavor Ohsawa teaches calculating unit is operable to calculate the thinning-out ratio of the index information so that the index information is thinned out based on a weight assigned to the index information depending on a reproduction time of the moving image file (see col. 8 lines 32-42 where the prior art teaches the frame displayed is thinned out in the

case where the moving image reproducing display is not in time. See also figure 2 and col. 3 lines 61-col. 4 line 2, regarding the index image. Therefore in light of the teaching in Ohsawa it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Jun by thinning out based on weight in order to perform special reproduction mode effectively.

Regarding claim 4, Ohsawa teaches file characteristic detecting unit operable to detect a characteristic of the moving image file, wherein in the case where said file characteristic detecting unit detects that the contents of the moving image file is a movie, said calculating unit is operable to calculate the thinning-out ratio of the index information so that a density of the index information becomes lower as the reproduction time of the moving image file passes (see col. 4 line 61-col. 5 line 19).

Regarding claim 5, Ohsawa teaches a reproduction start point detecting unit operable to detect a reproduction start point of the moving image file, wherein said calculating unit is operable to calculate the thinning-out ratio of the index information so that a density of the index information becomes lower before the reproduction start point detected by said reproduction start point detecting unit, and the density of the index information becomes higher after the reproduction start point detected by said reproduction start point detecting unit (see col. 6 line 50-col. 7 line 12).

Regarding claim 6, Ohsawa teaches a reproduction mode detecting unit operable to detect a reproduction mode of the moving image file, wherein in the case where said reproduction mode detecting unit detects an introduction reproduction mode for searching for the beginning of the moving image file, said calculating unit is operable to calculate the thinning-out

ratio of the index information so that a density of the index information becomes higher in an introduction reproduction section, and the density of the index information becomes lower in a section other than the introduction reproduction section (see col. 3 lines 51-60 and col. 4 lines 31-47).

Regarding claim 7, Ohsawa teaches an operational preference detecting unit operable to detect an operational preference of a user, wherein in the case where said operational preference detecting unit detects that the user uses a specific reproduction function with a predetermined frequency or higher, said calculating unit is operable to calculate the thinning-out ratio of the index information so that a density of the index information becomes higher in a reproduction section which is required when the reproduction function is used, and the density of the index information becomes lower in a reproduction section which is not required when the reproduction function is used (see col. 7 line 33-col. 8 line 67).

Claim Rejections - 35 USC § 101

6. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

7. Claim 11 is rejected under 35 U.S.C. 101 because the claims are directed to data structure.

Data structures not claimed as embodied in computer-readable media are descriptive material per se and are not statutory because they are neither physical “things” nor statutory processes. See, e.g. Warmerdam, 33 F. 3d at 1361, 31 USPQ2d at 1760 (claim to a data structure per se held nonstatutory) and merely claiming nonfunctional descriptive material stored in a computer-readable medium does not make it statutory. In addition a mere arrangements or

compilations of facts or data, are merely stored so as to be read or outputted by a computer without creating any functional interrelationship either as part of the stored data or as part of the computing processes performed by the computer then such descriptive material alone does not impart functionality either to the data as so structured, or to the computer, and therefore are not statutory. See MPEP 2106.IV.B.1.

Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to HELEN SHIBRU whose telephone number is (571)272-7329. The examiner can normally be reached on M-F, 8:30AM-5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, THAI Q. TRAN can be reached on (571) 272-7382. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/HELEN SHIBRU/

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Examiner, Art Unit 2621

August 14, 2009

/Thai Tran/

Supervisory Patent Examiner, Art Unit 2621